

May 31, 2013

Chairman Robert Kelly, Jr.  
Nooksack Tribe  
5016 South Deming Rd  
Deming, WA 98244

Mr. Kelly,

On June 11, 2012 (77 FR 34194), the U.S. Nuclear Regulatory Commission (NRC) published a final rule "Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste" (Advance Notification Rule) which amends its regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 71 and 73 to: 1) require licensees to provide participating Federally-recognized Tribes advance notification of commercial irradiated reactor fuel shipments and nuclear waste shipments meeting the criteria of 10 CFR 71.97(b) which may be transported within or across Tribal reservations; and 2) to relieve Tribal officials, Tribal officials' designees, and Tribal law enforcement personnel from the criminal history checks, fingerprinting, and other elements of background checks required to allow access to Safeguards Information (SGI). The rule became effective on August 10, 2012, and compliance with the notification provisions of the rule is not required until June 11, 2013.

The NRC staff received a communication on August 23, 2012, from your tribe requesting to receive advance notification of commercial irradiated reactor fuel shipments and nuclear waste shipments. The Advance Notification Rule only requires licensees to notify participating Federally-recognized Tribal governments regarding shipments of irradiated reactor fuel and certain nuclear wastes that pass within or across their reservations. The NRC limited the rule application to reservation lands to provide a clearly defined area which can be used by licensees to evaluate their routes and provide notification to participating Tribal governments. For areas outside the external Tribal reservation boundaries, the current regulations require that licensees provide notice to the applicable State government. Based on the requirements set forth in the final rule, the Nooksack Tribe meets the requirements to receive such advance notifications because it is a Federally Recognized Native American Tribe with reservation land.

The information contained in the advance notification for shipments of commercial irradiated reactor fuel shipments and nuclear waste shipments is designated as SGI.

Individuals that have a "need-to-know" for the information and have undergone both a Federal Bureau of Investigation criminal history records check and a background check for determination of trustworthiness and reliability or have been relieved from these checks under 10 CFR 73.57 or 73.59 may be provided access to the SGI. The Advance Notification Rule added 10 CFR 73.59(l) to relieve the Tribal official or the Tribal official's designated representative, and Tribal law enforcement personnel from the fingerprinting, identification and criminal history records checks.

Each person who produces, receives, or acquires SGI shall ensure that it is protected against unauthorized disclosure and is subject to the requirements in 10 CFR 73.21 and 73.22. In order to receive SGI notifications, the Nooksack Tribe must agree to protect the information in accordance with the regulations in 10 CFR 73.21 and 73.22. We have attached a brochure which contains basic information on the handling and protection requirements for SGI as well as SGI training materials which we and other organizations have used to ensure that individuals fully understand their responsibilities under these requirements. This brochure and the SGI training material are also available in our Agencywide Documents Access and Management System at <http://www.nrc.gov/reading-rm/adams.html> under accession number ML12283A116 and ML13108A326, respectively.

Please provide, in writing, the names of Tribal personnel who completed the review of the enclosed SGI training material. Additionally, you are requested to provide the names of Tribal officials who have authorized access to SGI and are able to receive the advanced notification information. Receipt of that information provides the NRC with certification that the Tribal officials or the Tribal officials' designee of the Nooksack Tribe have completed their review of the SGI training material and are aware of: 1) the regulatory requirements for SGI protection; and 2) that the unauthorized disclosure of SGI is subject to civil and criminal penalties.

In addition to the brochure and the SGI training material, we have included a map of your tribal reservation boundaries based on information obtained from the 2012 US Census data and confirmed by Bureau of Indian Affairs during the census survey process. . The referenced reservation boundaries will be used by NRC licensees to determine if a shipment, scheduled and/or approved for movement, would pass within or across your reservation. Confirmation, in writing to the NRC, is needed to verify that the referenced boundaries are correct. If the referenced boundaries are incorrect, we request that you identify the discrepancy and provide corrections to the boundary map.

If you have questions, comments or concerns regarding this letter or its content, please contact Ms. Jessica Glenny. Ms. Glenny can be reached by telephone at (301) 287-9226 or by email at [Jessica.Glenny@nrc.gov](mailto:Jessica.Glenny@nrc.gov).

The NRC is committed to engaging in meaningful government-to-government interaction with Tribes and informing Native American communities of the nature of NRC's regulatory activities.

Enclosures:

1. Protection of SGI Requirements (ML12283A116)
2. Safeguards Information Training Materials (ML13108A326)
3. Map of Reservation Boundaries (ML13114A937)

Sincerely,

/RA/

Mark Lombard, Director  
Division of Spent Fuel Storage  
and Transportation  
Office of Nuclear Material Safety  
and Safeguards

cc: Glen Yorks, Nooksack Tribe

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